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MAR 12 1997

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March 11, 1997

Richard L. Harvey  
WTUC  
1018 Hillcrest Drive  
Neshanic Station, New Jersey  
08853

Office of the Secretary  
Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

Dear Sir:

Attached please find two copies of an ex parte letter that is being sent to The Honorable Commissioner Susan Ness in the non-restricted **Notice of Proposed Rulemaking MM Docket 96-120**.

Sincerely,

  
Richard L. Harvey

2 enclosures

No. of Copies rec'd  
List ABCDE

251

March 11, 1997

Richard L. Harvey  
WTUC  
1018 Hillcrest Drive  
Neshanic Station, NJ 08853

The Honorable Susan Ness  
Commissioner - Federal Communications Commission  
1919 M Street, N.W.  
Washington, D.C. 20554

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FEDERAL RESERVE

Dear Commissioner Ness:

I hold the construction permit for un-built WTUC which is assigned to Tuckerton, NJ. Tuckerton is a community located on U.S. Route 9 about 20 miles north of Atlantic City. For about three years, I've been seeking zoning approval in an adjacent community, Bass River Township, a.k.a. New Gretna. The transmitter site is restricted to a very small area of Bass River Township due to N.J. State environmental regulations and current FCC rules. In the Notice of Proposed Rule Making ("NPRM") MM Docket 96-120, the Commission is currently considering changing some of its' rules which could positively affect the situation for WTUC.

I've been told by Commission staff that a decision on the docket is targeted for the end of March and that a draft decision is circulating at this time. I am writing you in this matter since I am aware that you have first hand knowledge of New Jersey and some of the radio stations which serve the state, particularly from your past experience at WRSU-Radio Rutgers.

*WTUC's Situation*

WTUC is a 3000 watt grandfathered Class A FM station. It is regulated under transmitter spacing requirements in section 73.213 of the Commission's rules. It can also take advantage of section 73.215 which allows some flexibility as to transmitter location if a directional antenna is used. Unfortunately, section 73.215, the section that provides site flexibility, requires 29 kilometers to second and third adjacent class A stations, whereas section 73.213 required only 27. As a result, section 73.215 fails to provide WTUC with any additional flexibility in locating its transmitter site towards other class A stations.

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Ex Parte Letter on Non-Restricted Proceeding MM Docket 96-120  
"Grandfathered Short-Spaced FM Stations"

Two copies have been submitted to the Office of the Secretary

I have attached maps which show the allowable area which WTUC could locate its transmitter. These are copies of zoning exhibits. Map 1 shows the allowable transmitter site locations drawn by tracing out the required distance from the other two Class A stations. The small area on Long Beach Island is heavily populated and there are no available existing towers or sites for a new tower there. Map 2 enlarges the area near the Garden State Parkway. All of the area west of the Parkway is in the Pinelands Preservation restricted area where broadcast towers are prohibited. The shaded area is Bass River State Forest, also an area where broadcast towers would not be allowed. The remaining area is very small and all contained in one community, Bass River Township.

Bass River Township is a rural community and has zoned this area as a forest zone which allows low density homes and some recreational uses compatible with the use of the forest. Local officials have opposed WTUC's efforts to obtain permission to erect it's tower and we lost in the zoning process in August, 1995. That decision has been appealed to a New Jersey Superior court.

*MM Docket 96-120*

This docket, among other things, proposes to eliminate the second and third adjacent spacing requirements for stations that were grandfathered by FCC rule changes that occurred in 1964. WTUC has filed comments asking that the Commission extend this to an additional class of station, the Class A FM stations that were grandfathered by FCC rule changes that occurred in 1989. If this extension was enacted into the FCC rules, WTUC could locate its' transmitter site on any of several nearby existing radio towers.

There appears to be good evidence that the technical basis for requiring the physical separation of stations operating with second or third adjacent frequencies is no longer true. Many years ago FM radio receivers drifted (were not frequency stable) and manufacturers installed an extra circuit called an AFC or *automatic frequency control* circuit to help the receiver lock on to the channel. As a result, the radio receiver would sometimes drift to the point where the AFC circuit would seek out an alternate signal instead of the intended signal and the listener would then hear the alternate channel. By keeping adjacent channels a physical distance away, the signal from them would be much weaker and the receiver would not be as likely to change channels. With improved frequency stability and improved selectivity, FM radio receivers for many years now have not exhibited this sort of problem.

Another impact of second and third adjacent signals is that at very strong levels these signals could cause audio distortion to or replace the intended signal. This type of interference has greater potential when the interfering signal is much stronger than the intended signal and is dependent of the selectivity of the radio receiver. Again for many years, FM receivers being sold have considerably better selectivity than receivers from many years ago.

Another factor supporting the elimination of second and third adjacent channel spacing restrictions is the fact that the current rules can actually increase the potential of this sort of interference. In the current flexibility rules, the station which moves closer to a second or third adjacent frequency station must reduce power in the direction of the interfering station. This reduces the intended signal relative to the interfering signal in the area nearby the interfering transmitter site and therefore increases the interference potential.

The Northeast has many short spaced FM stations that do not meet current spacing requirements. These were authorized many years ago when the Commission's rules didn't account for second or third adjacent channel spacing for some stations. An example that you might be familiar with from central New Jersey is the WMGQ-WRKS-WAWZ situation. You might remember WRKS as WOR-FM and WMGQ as WCTC-FM. WAWZ is in Zarapath (Franklin NJ). WRKS is in New York City and WMGQ is in New Brunswick with its' transmitter in Franklin, NJ. The frequencies are 98.3 / 98.7 / 99.1 which makes WRKS the second adjacent to both WAWZ and WMGQ. Both WRKS and WAWZ are class B and WMGQ is class A. The following shows the short spacing:

	Actual	Full Space Requirement (73.207)	Short
WRKS to WMGQ	53 km.	69 km.	16 km.
WRKS to WAWZ	52 km.	74 km.	22 km.

Recently, I drove in and around the WMGQ transmitter site listening to WRKS on my 1987 automotive original equipment radio to test these concepts. Except for a small area on the edge of the WMGQ property, I did not experience any interference. I also tested using a portable radio(My First Sony-a child's radio); the interference area was about the same as the blanketing interference area. In the blanketing area the portable radio had problems on many channels - not just WRKS. Even so, many times I could improve reception by repositioning the whip antenna or repositioning the radio. My conclusion from these tests is that there is no reason to consider second and third adjacent interference separate from nor different from blanketing interference.

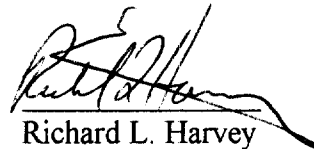
Another example of short spaced second adjacent channels are WMGK(102.9) in Philadelphia and WPRB(103.3) in Princeton, NJ. The required full spacing is 74 kilometers. The actual spacing is 54 km. Another short space combination is WYSP(94.1) in Philadelphia and WCHR(94.5) in Trenton. Taking a quick look at the stations in this area, it appears that this situation is not so rare. The Commission in the NPRM states that it hasn't received any complaints specific to these situations. (There are also many cases of short spaced co-channel and first adjacent channel stations in this area which do exhibit problems.)

### *Other Considerations*

Another consideration is the difficult zoning circumstances that the rapid deployment of PCS and Cellular services has caused. For broadcasters, the widespread, in some cases organized, opposition to radio towers is troublesome, particularly in light of the fact that broadcasters use towers that are generally taller than and power levels greater than PCS or Cellular. In addition, many major market FM broadcasters may soon need to relocate their transmitting sites due to the lack of capacity on existing towers for the additional transmitting antennas for the new advanced television service. These stations may find their situation similar to WTUC's when they attempt to build new tower sites and find themselves locked in by FCC spacing requirements and local zoning restrictions.

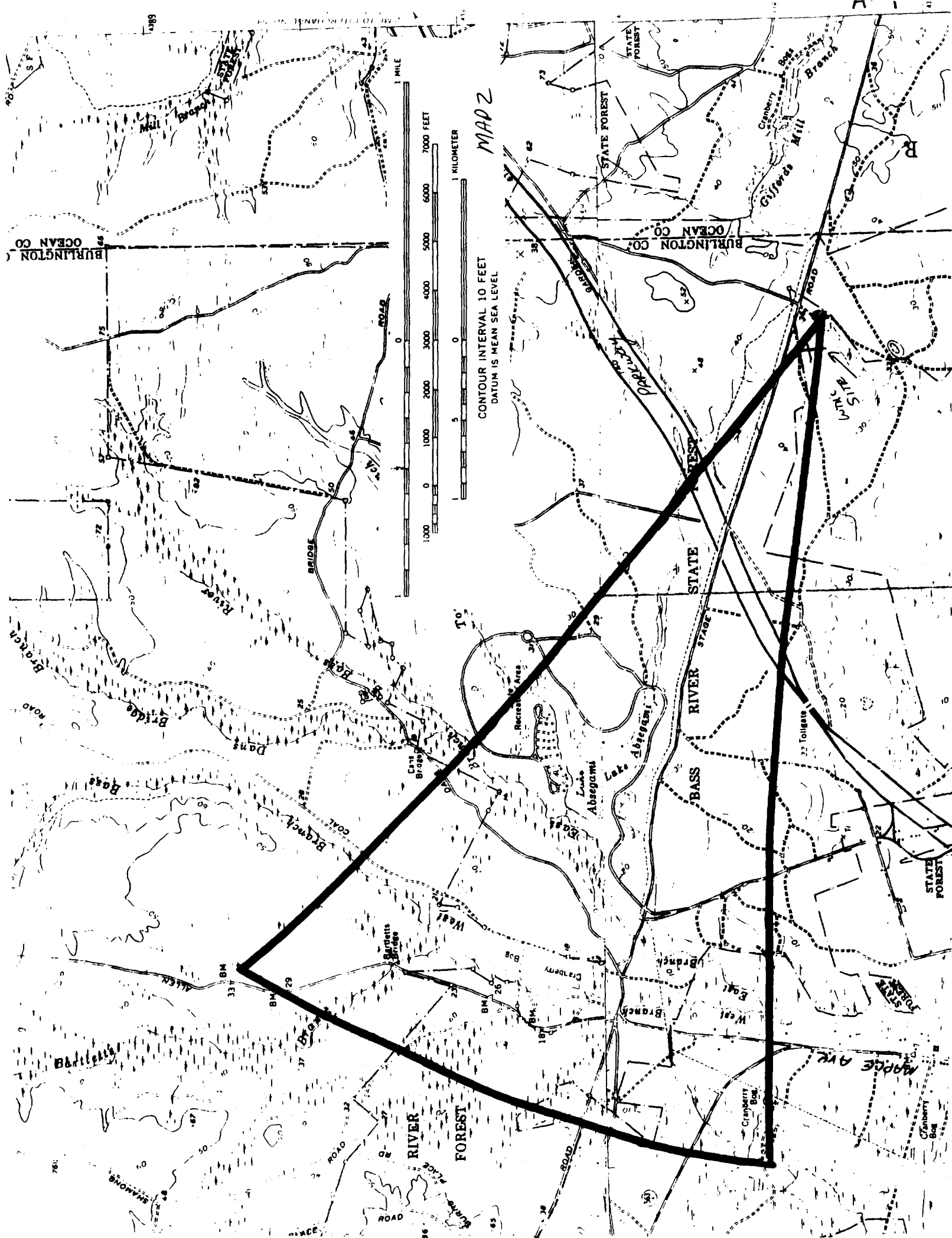
We anticipate having WTUC's zoning appeal heard in court by late March. The current FCC rules have caused considerable resources to be expended by ourselves and by local government officials for what appears to be outdated technical considerations. The subject NPRM could, if extended, offer needed relief to a potentially large number of broadcasters without compromising the technical basis used for locating FM radio transmitting sites. I encourage the Commission to address this issue now in this NPRM. If you wish to discuss this material further or have any questions, I can be reached during the day at (908)581-9365 or by e-mail at rh@juno.com. Thank you for your consideration in this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard L. Harvey", with a long, sweeping horizontal line extending to the right.

Richard L. Harvey





MAP 2

CONTOUR INTERVAL 10 FEET  
DATUM IS MEAN SEA LEVEL

1 MILE

0 1000 2000 3000 4000 5000 6000 7000 FEET

0 5 10 KILOMETER